

REMARKS

Applicants request favorable reconsideration and withdrawal of the rejection set forth in the above-mentioned Office Action in view of the foregoing amendments and the following remarks.

Claims 1, 4, 5, 7-9, 11, and 13-21 remain pending. Claims 11 and 13-20 stand withdrawn from consideration as being directed to a restricted, non-elected invention. Of the other claims, claims 1 and 21 are independent. Claims 6 and 10 have been cancelled without prejudice or disclaimer of subject matter. Claims 1, 4, 5, and 7 have been amended. Support for the amendments can be found throughout the originally-filed disclosure. Accordingly, Applicants submit that the amendments do not include new matter.

Claims 1-10 and 21 are rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Struyk (U.S. Patent Application Pub. No. 2003/0128218).

Applicants respectfully traverse the rejection and submit that the claimed invention is patentably distinguishable from Struyk for at least the following reasons.

Independent claim 1 recites a color display element comprising, inter alia, a unit pixel that is comprised of first and second sub-pixels. Independent claim 1 recites that the second sub-pixel has a color filter. Independent claim 1 still further recites that an optical property of the medium located in the first sub-pixel is modulated in accordance with a voltage applied to the first sub-pixel in a range within which a brightness of light passing through the medium is variable and in a range within which a chromatic color assumed by light passing through the medium changes within red and blue. Independent claim 21 recites a method with analogous

features.

The Office Action cites Struyk as disclosing features of the invention. Notably, the Office Action finds that Struyk discloses the use of color filters. Office Action, p. 3.

Applicants agree with this finding with respect to Struyk's use of color filters. For example, the reference notes that in technology of the invention, each pixel "is generally composed of a triad of smaller areas, or sub-pixels, consisting of tiny phosphors, color filters, or the like, which individually produce the primary colors red, blue, and green." Paragraph 0042. Further, Struyk discloses that the combination of color intensities from the red, green, and blue filtered sub-pixels allows for production of the desired image with particular colors. Paragraph 0043. Thus, Struyk clearly discloses a configuration wherein the primary color filters are an integral feature in order to vary the colors emanating from each of the sub-pixels.

The Office Action further asserts, however, that it would have been obvious to one of ordinary skill in the art to modify the disclosure of Struyk so that an optical property of the medium of one of the sub-pixels is modulated such that when a voltage is applied to the sub-pixel a chromatic color assumed by the light passing through the medium changes within red and blue, as in the claimed invention. The Office Action bases this finding on known chromaticity diagrams, and that "the motivation of KSR principals that [this] is a well known technique in the art." Office Action, p. 4.

Applicants submit, however, that the idea of modifying Struyk in a manner such that the light passing through the medium changes within red and blue goes against the configuration actually disclosed in the reference. As noted above, Struyk makes clear that primary color filters

are used in conjunction with the sub-pixels in order to generate different colors. The reference thereby provides a means for producing different colors in the form of primary color filters for each sub-pixel. To modify Struyk such that such that an optical property of the medium of one of the sub-pixels allows for light passing through the medium to change within red and blue would require extensive reconfiguration of the system for which there is no obvious advantage. That is, as the system of Struyk can already produce its desired colors through the combination of sub-pixels and primary color filters, the modification would add nothing to the features already present in the system. Moreover, the filters and modified medium would likely have to be adjusted to one another to achieve the same resulting colors as before the modification, thereby requiring further engineering that one of ordinary skill in the art in view of Struyk would not understand to provide any different result from the configuration already disclosed in the reference.

Applicants further respectfully submit that generally-known chromaticity diagrams and techniques, as cited in the Office Action, fall well short of indicating that one of ordinary skill in the art would have found the claimed combination obvious based on the disclosure of Struyk. As discussed above, the modifications of Struyk required to derive the claimed invention would not have been seen by one of ordinary skill as advantageous. The mere knowledge of chromaticity diagrams and associated techniques cannot be understood to outweigh the counter-intuitive nature of the modifications of Struyk necessary to result in the claimed invention.

In sum, Applicants submit that the claimed combination of sub-pixels, and their features, recited in independent claims 1 and 21 is not disclosed or suggested by Struyk. The reference itself suggests a completely different configuration, and, absent further evidence, it would be counter-intuitive for one of ordinary skill in the art to derive the claimed invention from the reference.

The dependent claims should also be deemed allowable, in their own right, for defining other patentable features of the present invention in addition to those recited in the independent claims. Applicant requests further individual consideration of these dependent claims.

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable reconsideration and early passage to issue of the application are earnestly solicited.

Any fee required in connection with this paper should be charged to Deposit Account No. 06-1205.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Donald H. Heckenberg, Jr./

---

Donald H. Heckenberg, Jr.  
Attorney for Applicants  
Registration No. 60,081

FITZPATRICK, CELLA, HARPER & SCINTO  
1290 Avenue of the Americas  
New York, New York 10104-3800  
Facsimile: (212) 218-2200  
DHH:ntb

FCHS\_WS 3887266v1